

# Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of )

Federal-State Joint Board )  
On Universal Service )

CC Docket No. 96-45

## REPLY COMMENTS OF COLUMBIA COMMUNICATIONS CORPORATION

Columbia Communications Corporation ("Columbia"), by counsel and pursuant to Section 1.429(g) of the Commission's rules, hereby replies to comments and oppositions filed in connection with the various petitions for reconsideration and/or clarification submitted in the above-captioned proceeding. Columbia is one of the initial petitioners, having sought a clarification of the Commission's initial Report & Order to affirm that providers of bare satellite space segment capacity are not required to make universal service fund ("USF") payments.

In response to Columbia's Petition, as well as a pleading seeking similar clarification filed by GE American Communications, Inc. ("GE Americom"), supporting comments have been filed by Loral Space & Communications Ltd. ("Loral") and PanAmSat Corporation ("PanAmSat"), as well as by GE Americom. Columbia is in agreement with these commenters that: (1) provision of bare satellite space segment capacity to a third party is not the provision of "telecommunications," as defined under

the Communications Act, because there is no element of transmission involved;<sup>1/</sup> (2) as a practical matter, operators selling and/or leasing transponder capacity do not benefit from the ubiquitous availability of the public switched telephone network;<sup>2/</sup> (3) imposing additional costs upon space segment providers would be problematic because of the long-term nature of their service contracts, and imposition of USF obligations on these providers could result in substantial harm;<sup>3/</sup> and (4) collecting USF contributions from U.S.-based international satellite operators based on international revenues would disadvantage these operators *vis-à-vis* non-U.S.-licensed competitors.<sup>4/</sup> As noted, each of these points is fully supported in Columbia's Petition, GE Americom's Petition and/or the filings of the other satellite commenters; therefore, Columbia sees no need to reiterate them here.

By contrast, Columbia has been served with only two comments that take issue with its Petition in any way, and each is based upon an apparent misunderstanding

---

<sup>1/</sup> See GE Americom Petition for Clarification or Reconsideration at 8-11 (filed July 17, 1997); GE Americom Comments at 4-5 (filed August 18, 1997); Loral Comments at 6-13 (filed August 18, 1997); PanAmSat Comments at 3-7. See also 47 U.S.C. § 153(43) ("The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received") (emphasis added).

<sup>2/</sup> See Columbia Petition at 5-6; GE Americom Comments at 6; Loral Comments at 4-5; PanAmSat Comments at 2.

<sup>3/</sup> See Columbia Petition at 6-7; GE Americom Petition at 12-14; GE Americom Comments at 4 & n.10; PanAmSat Comments at 7-8.

<sup>4/</sup> See Columbia Petition at 8-9; GE Americom Comments at 4; PanAmSat Comments at 8-9.

of the action that Columbia seeks.<sup>5/</sup> In both cases, Columbia's request is lumped together with those of other petitioners seeking various changes to the universal service requirements and made subject to a blanket assertion that all of the cited requests should be rejected.<sup>6/</sup> In neither case does the commenter actually focus on the interpretive clarification that Columbia seeks or otherwise address the substantive policy considerations that Columbia and the other satellite commenters have raised.

The United States Telephone Association ("USTA"), for example, argues generally that it would be inappropriate to grant any "exemption" from the obligation to contribute to universal service support. *See* USTA Comments at 4. Columbia, however, does not seek an exemption from the requirement, but simply an acknowledgement that provision of bare satellite space segment is not within the scope of activities that are covered by the USF payment obligation (*i.e.*, that it is not "telecommunications," as defined under the Communications Act).

Moreover, apart from the narrow legal issue posed, USTA appears not to have considered at all Columbia's policy-based arguments concerning the fundamental inappropriateness of extending USF obligations to entities that are not telecommunications providers. USTA's only arguments in opposition to Columbia's Petition are that all "telecommunications providers" benefit from ubiquitous public

---

<sup>5/</sup> See Opposition of United States Telephone Association (filed August 18, 1997); Opposition of MCI Telecommunications Corporation (filed August 18, 1997). Notably, neither party expresses opposition to GE Americom's similar request.

<sup>6/</sup> Columbia takes no position on the validity of arguments made by these other petitioners.

networks and that “most telecommunications providers are able to pass through their contributions to their customers which allows them to avoid the burden of supporting universal service.” USTA Opposition at 5.<sup>7/</sup> Columbia does not disagree with these general statements, but they are inapplicable to it as a space segment provider.

Notwithstanding the essential point that providers of bare space segment are not “telecommunications providers” under the Act, USTA’s observations ignore Columbia’s showing that companies leasing transponder capacity do not, in fact, benefit from the ubiquitous availability of PSTN services and, unlike “most telecommunications providers,” may also be significantly constrained in their ability to pass along new costs to customers because of the long-term nature of their contracts. *See* Columbia Petition at 5-7. Rather than undermining the basis for Columbia’s petition, USTA’s assertions simply underline two of the practical reasons that provision of bare space segment capacity cannot be categorized as telecommunications and thus lies outside the scope of activities covered by the USF payment obligation.

### **Conclusion**

Only perfunctory statements of disagreement have been raised in opposition to Columbia’s Petition. No party to this proceeding has addressed the actual substance of Columbia’s clarification request, let alone articulated any sound basis for reaching an alternative conclusion. Accordingly, the Commission should affirm expeditiously the

---

<sup>7/</sup> MCI makes similar cursory arguments in a single paragraph of its comments. *See* MCI Opposition at 17.

interpretation of the Act articulated by Columbia, GE Americom, Loral and PanAmSat, and it should issue an Order definitively stating that satellite operators are subject to USF payment requirements only to the extent that they are engaged in providing telecommunications services, *i.e.*, common carriage, because, inter alia, the provision of bare space segment capacity is not telecommunications under the Act, and therefore cannot be a basis for USF contributions.

Respectfully submitted,

COLUMBIA COMMUNICATIONS CORP.

By:   
Raul R. Rodriguez  
David S. Keir

Leventhal, Senter & Lerman P.L.L.C.  
2000 K Street, N.W.  
Suite 600  
Washington, D.C. 20006  
(202) 429-8970

September 3, 1996

Its Attorneys

## CERTIFICATE OF SERVICE

I, Vera L. Strong, do hereby certify that true and correct copies of the foregoing "Reply Comments of Columbia Communications Corporation" were mailed, first-class postage prepaid, this 3rd day of September, 1997 to the following:

- \* Tom Boasberg  
Federal Communications Commission  
1919 M Street, NW, Room 814  
Washington, DC 20554
- \* Kathleen Franco  
Federal Communications Commission  
1919 M Street, NW, Room 844  
Washington, DC 20554
- \* Paul Gallant  
Federal Communications Commission  
1919 M Street, NW, Room 802  
Washington, DC 20554
- \* James Casserly  
Federal Communications Commission  
1919 M Street, NW, Room 832  
Washington, DC 20554
- \* Regina M. Keeney  
Federal Communications Commission  
1919 M Street, NW, Room 500  
Washington, DC 20554
- \* Ruth Milkman  
International Bureau  
Federal Communications Commission  
2000 M Street, NW, Room 821  
Washington, DC 20554

\* Jeanine Poltronieri  
Federal Communications Commission  
2025 M Street, NW, Room 5002  
Washington, DC 20554

Mary J. Sisak  
Mary L. Brown  
MCI Telecommunications Corporation  
1801 Pennsylvania Avenue, NW  
Washington, DC 20006

Mary McDermott  
Linda Kent  
Keith Townsend  
Hance Haney  
United States Telephone Association  
1401 H Street, NW, Suite 600  
Washington, DC 20554

Peter A. Rohrbach  
David L. Sieradzki  
Cindy D. Jackson  
Hogan & Hartson, L.L.P.  
555 - 13th Street, NW  
Washington, DC 20004

Sue D. Blumenfeld  
Michael G. Jones  
Jennifer Desmond McCarthy  
Willkie, Farr & Gallagher  
1155 - 21st Street, NW, Suite 600  
Washington, DC 20036

Daniel S. Goldberg  
W. Kenneth Ferree  
Goldberg, Godles, Wiener & Wright  
1229 - 19th Street, NW  
Washington, DC 20036

Thomas Keller  
Eric Werner  
Verner, Liipfert, Bernhard, McPherson  
& Hand, Chartered  
901 - 15th Street, NW, Suite 700  
Washington, DC 20005-2301

April McClain-Delaney  
Orion Network Systems, Inc.  
2440 Research Boulevard  
Suite 400  
Rockville, MD 20850-3288

A handwritten signature in cursive script, appearing to read "Vera Strong", written over a horizontal line.

Vera L. Strong

\*By Hand Delivery